

## REMARKS

Claims 1-7 are pending in the application.

### **I. TRAVERSE OF THE OBVIOUSNESS REJECTION**

The examiner rejects all pending claims 1-7 for obviousness over Quilter et al. (Quilter)(USP 2,861,568) in view of Tischer et al. (Tischer)(USP 6,328,031). It is the examiner's position that Quilter discloses all of the features of the claimed invention except for a second sub-assembly separable from the first subassembly but selectively co-operable therewith. The examiner relies upon Tischer for supplying this missing teaching. It is the examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Quilter in order to make the subassemblies separable "for the purpose of preventing direct exposure of the wearer's head to high heat environment taught by Tischer". The examiner's rejection is hereby traversed.

With regard to Quilter, we wish to point out again that the Examiner's references to Figure 7 of the document are assumed to mean Figure 9 as the reference numbers discussed in the examiner's office action are found in Figure 9.

#### **A. The Examiner Has Not Established A *Prima Facie* Case Of Obviousness**

The examiner has not shown that every feature of independent claim 1 is found in the prior art. Specifically, the result of the combination of Quilter and Tischer at least does not meet the requirement in claim 1 of the application that the *second* sub-assembly comprises an inlet connectable to a source of breathing gas for supply to the user. For at least this reason, the examiner has not established a *prima facie* case of obviousness and all claims must be allowed.

As the examiner points out, Quilter discloses a feed tube 68 for oxygen supply to the user. As shown in Figure 9 and described in column 5, lines 59-67 of the reference, this tube "passes to the rear compartment 17b of the helmet through one or more connectors *mounted on the cover 15*". As earlier pointed out by the examiner, however, this cover is comprised in the *first* not *second* sub-assembly, that is to say the sub-assembly which includes the face seal 13 not the sub-assembly comprising the mask 25. This is also true in the case of an inlet as shown in Figure 8 of the reference which leads "into the rear compartment 17b of the space *between the inner skin 11 and the cover 15*". Claim 1 is therefore clearly patentably distinct from the applied

references and since all the other claims 2-7 depend on claim 1 they are also patentably distinct for at least this same reason.

#### **B. The Examiner's Grounds For Combining The References Is Faulty**

Claims 1-7 are non-obvious and patentable because the examiner's motivation for combining the references is faulty.

The examiner takes the position that Quilter discloses a first sub-assembly (the outer skin or cover 15) and a second sub-assembly (the window 26 and mouthpiece or breathing mask 64, which are both comprised in the frontal mask 25). The examiner does not identify why these particular elements of the overall helmet structure are to be regarded as individual sub-assemblies although this is assumed to be based on column 2, lines 64-67 of the reference where it is stated that "the molded mask 25 and the sheet-rubber cover 15 may be formed separately and joined together by vulcanization or otherwise, as the judgement of the manufacturer may dictate".

The Examiner correctly recognises that Quilter fails to disclose that the mask 25 is separable from but selectively co-operable with the cover 15 as required for the two sub-assemblies in claim 1 of the application. It is also correct that Tischer discloses a structure in which a hood and face mask are detachably connected to each other. It does not however follow, as alleged by the Examiner, "for the purpose of preventing direct exposure of the wearer's head to high heat environment taught by Tischer" that it would be obvious to one of ordinary skill in the art to modify the helmet of Quilter to make the two identified subassemblies separable and electively co-operable as claimed.

In this respect there is no suggestion in either reference that the references be combined in the manner suggested, or at all. Indeed, the purposes of the Tischer and Quilter devices are quite different. It is an aim of Tischer to provide a fire fighting hood and face mask assembly which simplifies and speeds the donning of the hood and mask and which reduces the risk of injury to the firefighter while permitting the hood to be quickly and easily detached from the face mask to facilitate cleaning and/or replacement of the hood (Tischer et al column 2, lines 6-12).

Moreover:

The hood is detachably connected face mask so as to secure the annular edge of the hood in the annular recess of the face mask and thereby prevent direct exposure of the individual's head to the high heat environment associated with a firefighting site.

(See Tischer at col. 2, lines 35-39). A high heat environment is not a concern at all of Quilter however. Instead Quilter seeks to provide an improved oxygen-fed pressurized helmet for aviators at high altitudes, which is constructed mainly of flexible material but dispenses with a compensatory or “pressure-drop” valve, and prevents the accumulation of carbon dioxide in the interior of the helmet (Quilter et al column 1, lines 53-61). It is not the intention of Quilter that the helmet should ever be worn without the frontal mask 25, and indeed while Quilter discloses that the mask 25 and cover 15 may be formed separately, the reference explicitly requires the components to be permanently joined, as by vulcanization. It would therefore be entirely contrary to the teaching of Quilter (1) to modify the structure to make these components separable; and (2) to modify the structure in any way due to high heat environment concerns. Hence claims 1-7 are not obvious and patentable because a skilled person at the time of the invention would not have combined the references as the examiner has.

## II. PIECEMEAL EXAMINATION

The present Office Action is the fifth Office Action in which the examiner has tried to reject all of the pending application claims over the prior art. Moreover, the present Office Action relies upon identical prior art applied in the prior office action, but applies the art to the claimed invention in a different manner. Once again, the examiner is reminded that MPEP 707.07(g) cautions against piecemeal application examination of the kind that is occurring in this application. The Applicant respectfully asks the examiner to cease the piecemeal examination of this application and allow all pending application claims.

## CONCLUSION

Claims 1-7 are pending in the application and are believed to be patentable for at least the reasons identified above. Favorable consideration and allowance of all pending application claims is courteously solicited.

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